

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

LARRY HARRIS,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

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CIVIL ACTION NO. 09-0156-KD-C

ORDER

This matter is before the Court on the motion for substitution and amendment of caption (doc. 2). The United States of America moves the court, pursuant to 28 U.S.C. § 2679(d)(2), to substitute the United States as the defendant and for amendment of the caption. Plaintiff did not file a response to the motion.

As grounds, the United States asserts that the United States Attorney for this district, acting with authority delegated by the Attorney General, has certified that Mark Tucker was acting within the scope of his office or employment at the time of the incident from which plaintiff's claim arose, and therefore, the named defendant should be the United States of America. 28 U.S.C. § 2679(d)(2) ("Such action or proceeding shall be deemed to be an action or proceeding brought against the United States . . . and the United States shall be substituted as the party defendant."); see 28 U.S.C. § 2679(b)(1) (remedies against the United States provided by 28 U.S.C. § 1346(b) and § 2672 for acts or omissions of its employees acting within the scope of their employment are "exclusive of any other civil action or proceeding for money damages by reason of the same subject matter against the employee . . .") Accordingly, the motion for substitution is **GRANTED** and the caption of this case is **AMENDED** to substitute the United States of America as the defendant.

DONE and ORDERED this 2nd day of April, 2009.

s / Kristi K DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE